

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 234

June 5, 1995, 6:04 p.m.
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TERRORISM PREVENTION/Tagging of Explosive Materials

SUBJECT: Comprehensive Terrorism Prevention Act of 1995 . . . S. 735. Feinstein modified amendment No. 1202 to the Hatch substitute amendment No. 1199.

ACTION: AMENDMENT AGREED TO, 90-0

SYNOPSIS: As reported, S. 735 will enact law enforcement provisions to prevent terrorism and to apprehend and punish terrorists, and will reform Federal and State capital and noncapital habeas corpus procedures.

The Hatch substitute amendment to S. 735 would make major revisions to the bill, particularly to the provisions regarding international terrorism, alien removal, and fundraising by terrorist organizations.

The Feinstein modified amendment to the Hatch amendment would require the Secretary of the Treasury to conduct a study on, and make recommendations concerning: the tagging of explosive materials for purposes of detection and identification; whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible and cost effective to require it. For purposes of this amendment, explosive materials would not include smokeless or black powder manufactured for small arms ammunition and components thereof. Six months after the completion of the study required by this amendment, the Secretary of the Treasury would promulgate regulations for the addition of tracer elements to explosive materials manufactured in or imported into the United States, with the limitation that those elements would not substantially impair the quality of the explosive materials for their intended lawful use, adversely affect the safety of the explosives, or have a substantially adverse effect on the environment.

Those favoring the amendment contended:

The Feinstein amendment has two parts. First, it would provide for a study of the use of taggants in explosives, and would grant authority to issue regulations requiring their use after the study is completed. A taggant is a small, color-coded piece of plastic that

(See other side)

YEAS (90)				NAYS (0)		NOT VOTING (10)	
Republican (48 or 100%)		Democrats (42 or 100%)		Republicans (0 or 0%)	Democrats (0 or 0%)	Republicans (6)	Democrats (4)
Abraham	Hutchison	Akaka	Hollings			Faircloth ⁻²	Bradley ^{-2AY}
Ashcroft	Inhofe	Baucus	Inouye			Gramm ⁻²	Kerrey ⁻²
Bennett	Kassebaum	Biden	Johnston			Hatfield ⁻²	Leahy ^{-2AY}
Bond	Kempthorne	Bingaman	Kennedy			Jeffords ⁻²	Murray ⁻²
Brown	Kyl	Boxer	Kerry			Lugar ⁻²	
Burns	Lott	Breaux	Kohl			Murkowski ⁻²	
Campbell	Mack	Bryan	Lautenberg				
Chafee	McCain	Bumpers	Levin				
Coats	McConnell	Byrd	Lieberman				
Cochran	Nickles	Conrad	Mikulski				
Cohen	Packwood	Daschle	Moseley-Braun				
Coverdell	Pressler	Dodd	Moynihan				
Craig	Roth	Dorgan	Numm				
D'Amato	Santorum	Exon	Pell				
DeWine	Shelby	Feingold	Pryor				
Dole	Simpson	Feinstein	Reid				
Domenici	Smith	Ford	Robb				
Frist	Snowe	Glenn	Rockefeller				
Gorton	Specter	Graham	Sarbanes				
Grams	Stevens	Harkin	Simon				
Grassley	Thomas	Heflin	Wellstone				
Gregg	Thompson						
Hatch	Thurmond						
Helms	Warner						

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

can be placed as an identifying marker in explosive materials. When a bomb is used, the plastic can be found in the residue. Like a barcode, the plastic will tell law enforcement officers where the explosives used in the bomb were produced and when. This information will obviously help in investigations of criminal bombings. Bombing is a serious problem in America; in 1993 alone the Department of Justice's annual Bomb Summary reports that there were 2,980 incidents. Taggants will prove to be an important crime-fighting tool. The other element of the Feinstein amendment, which has stirred less controversy, is that it would require a study of whether it is feasible to put elements into chemicals such as fertilizer to make it impossible to turn those chemicals into explosives. In the wake of the Oklahoma City bombing, which was done with a fertilizer bomb, all Senators understand the advisability of conducting this feasibility study. After we made modifications to this amendment, to make clear that we do not intend the use of taggants if the evidence indicates such use would be unwise, and that we do not intend to use them in certain explosives for which some evidence currently suggests it would be unwise, our colleagues have told us they now find the amendment to be acceptable. We are pleased that we were able to accommodate our colleagues' concerns, and urge all Senators to support the Feinstein amendment.

While favoring the amendment, some Senators expressed the following reservations:

As modified, the amendment is now acceptable. The amendment originally ordered a study on taggants, and it ordered the use of taggants in 18 months, whether or not the results of that study were available. Serious questions on the advisability of using taggants exist; therefore, it would have been unwise to order their use before the study to answer those questions had been completed. Using taggants may well prove to be a poor idea. First, their use may prove harmful to the businesses that use explosives. For example, one silicate manufacturer has written us to explain that the purity of its product would be compromised by the addition of any foreign elements to its explosives. If it had to go to extensive steps to remove those elements, its product, which is used in high-purity computer chips, would become uncompetitive. Another fear, which was raised by the Office of Technology Assessment (OTA) in 1980, is that adding taggants would make some explosives unstable. The OTA found that this problem exists with smokeless powder, and also found that no conclusive statement can be made about other explosives without further tests. This OTA study is to date the most comprehensive conducted. Clearly, we need a more comprehensive study, and we should base our actions on the results of that study. The Feinstein amendment, as modified, would allow that course to be followed, so it merits our support.